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E.O. 12958: DECL: 1.6 FIVE YEARS AFTER CLOSURE ICTY
TAGS: [BK](#) [HR](#) [KAWC](#) [NL](#) [PHUM](#) [PREL](#) [SR](#) [ICTY](#)
SUBJECT: ICTY: KEY WITNESSES TESTIFY TO MILOSEVIC'S CONTROL
OF GOVERNMENT AND MILITARY

(U) Classified by Clifton M. Johnson, Legal Counselor, for
reasons 1.5(D) and 1.6.

11. (C) Summary: Trial Chamber III of the International Criminal Tribunal for the Former Yugoslavia (ICTY) heard testimony from political insiders the week of October 20 as the Prosecution continued to present its case against Slobodan Milosevic. Two key witnesses offered their versions of the role Milosevic played in the break up of the Former Yugoslavia, particularly with respect to Belgrade,s support for military and paramilitary forces operating in Croatia and Bosnia. While the testimony was generally strong, Milosevic succeeded in making several assertions during cross-examinations that undermined parts of the testimony. The week of October 27 was highlighted by the appearance of Deputy Prosecutor Graham Blewitt as a witness. Milosevic took the rare opportunity to confront a senior member of the Office of the Prosecutor (OTP) to challenge the legitimacy of the court, accuse the OTP of bias and selective prosecution, blame NATO bombings for crimes, and make vague allegations concerning Kosovar terrorism and bin Laden. Separately, the trial chamber granted in full the protective measures sought with respect to General Clark,s testimony, accepting each of the USG,s conditions for such testimony. Clark now appears likely to testify in December. End summary.

Week of October 21-23

12. (SBU) On October 21, the trial chamber heard from Gajic Glisic, Chief of Staff for Serbian defense minister General Tomislav Simovic in 1991. She sought to link Milosevic to paramilitaries, establish his influence over the People,s Army of Yugoslavia (JNA), and show his efforts to create a Serbian Army. Early in her testimony, the witness publicly thanked "Comrade Milosevic" for saving her life. She asserted that her life was in danger after General Simovic was "forced" out of the government, but that Milosevic intervened on her behalf to prevent her "liquidation." She then proceeded to provide a detailed account of interactions between General Simovic and Milosevic. She spoke of how no one ever disagreed with Milosevic, leaving the Minister of Defense, inter alia, without any real power. Her testimony also linked Milosevic to paramilitary groups by showing that he provided them equipment and training. She also testified that he supported them militarily through JNA operations. She said she was certain that Milosevic knew of the war crimes that were being committed by the paramilitary groups. Specifically, she recounted how Milosevic ordered the JNA to provide air support to paramilitary commander Arkan when his forces were pinned down in Croatia. Glisic also testified that Milosevic assigned General Simovic the task of drafting a "secret" legislative bill that would create a "Serbian Army," which would replace the JNA. These efforts were eventually thwarted and General Simovic was removed from office in December 1991.

13. (C) On October 22, Milosevic adroitly cross-examined Glisic. Through his questioning, the Accused drew a distinction between the "volunteers" who signed up with the "Territorial Defense" units under the JNA versus the paramilitary groups. She testified that the Minister of Defense only procured equipment and gave training to volunteers for the "Territorial Defense" units. She did, however, again link Milosevic with paramilitary commanders Arkan and Captain Dragan. The Accused was in unusually good humor, smiling on occasion and at one point joking when the witness offered to give him a manuscript of her book. He noted that it is "good to accumulate as much paper as possible, thank you."

14. (SBU) On October 23, the Prosecution called Ante Markovic, Yugoslavia,s former prime minister. His testimony sought to give the trial chamber insight into Yugoslavia,s government and the role Milosevic played on the eve of war. The witness did not make eye contact with Milosevic and never faced the defendant directly. The witness asserted that he was eventually politically isolated after his attempts at federal reform were thwarted. He resigned in December 1991. Markovic stated that throughout 1991 the federal

government,s power was slowly eroded by Milosevic and other nationalist leaders. He testified that the reforms he proposed failed in no small part because of the actions of Milosevic.

15. (SBU) Markovic explained how Milosevic would routinely say that he supported the federal government of Yugoslavia, yet all of his actions sought to undermine it. Markovic said that Milosevic was "obviously fighting for Greater Serbia," though he also "used everything he could to ensure power for himself " if that was nationalism, then he used nationalism. But he was not a nationalist. He was someone who used anything at his disposal to secure power for himself." Markovic also testified about how he confronted both Milosevic and Tudjman about a secret deal to divide Bosnia and Herzegovina between Serbia and Croatia. He stated that both of them eventually admitted to this plan.

16. (SBU) Markovic,s testimony gave further substance to the Prosecution,s argument that Milosevic had complete control over the government and military. He explained how no one under Milosevic ever went against him and stayed in power. However, when Judge May asked for concrete examples of this, the witness did not have a compelling answer. Markovic went on to explain that Milosevic was also responsible for the mobilization of the JNA in Slovenia and its movement into Bosnia and Herzegovina. He discussed how the Presidency had not authorized the military intervention, but that Milosevic had control over the army. Lead Prosecutor Geoffrey Nice also presented a recorded intercept for Markovic to authenticate which showed Milosevic and Karadzic discussing details of military mobilization.

17. (C) Milosevic began his cross-examination of Markovic on the same day, although time constraints led to an abbreviated examination. Milosevic, composed during the questioning, provoked Markovic into emotional responses. At two different points, Markovic asked Judge May, "who is on trial, me or the Accused?" Judge May explained to the witness that the Milosevic was facing serious charges and had a right to present his case. Before the cross-examination adjourned, Milosevic sought to establish that Markovic, not himself, had the legal and actual power over the army. Milosevic attempted to show that Markovic was head of state and thereby had control and was thus responsible for the mobilization of the JNA in Slovenia. The witness refuted such conclusions saying that in actuality the federal government had no power and that, as prime minister, he had no authority to authorize the military interventions.

18. (SBU) At one point, Milosevic produced a documentary review of the federal executive agenda for 1991 providing details of Markovic,s schedule, which Markovic authenticated. Milosevic said that the document came from the federal records archive in Belgrade and then sardonically noted that the entries for December were rather short. Nice then noted that the archives are closed to the Prosecution and wondered out loud how such documents were available for the Accused. Nice later requested that the court retain the original, against the wishes of the Accused, and also asked how Milosevic received this document. The court decide to retain the original and to provide copies to the parties. Milosevic later referred to a transcript of a phone conversation between Markovic and United States Secretary of State James Baker III, in which Baker was alleged to have stated that the Serbian Secretary of Defense, which reports to the federal government, controls the army. The cross-examination was then adjourned and will continue at a later date.

Week of October 28-30

19. (SBU) On October 28, the trial chamber heard testimony from two witnesses. Michel Reviere, a journalist, provided the chamber with video footage that he and his cameraman took of the White Eagles, a Serb paramilitary group. Reviere testified to his conversation with two Serbian paramilitary soldiers who approached him in a caf in Pale and proceeded to explain their exploits and methods. The soldiers explained that they were not paid, but were authorized to loot and procure their own weapons and equipment. The two soldiers then invited the journalist to their headquarters. The video showed the paramilitary group preparing for a mission, and then the journalist was allowed to go along with the paramilitary group as they traveled up to a sniper position in the heights around Sarajevo. Shooting from both sides could be heard in the video clip, but no actual sniper activity was recorded. The journalist traveled back up to the sniper position the next day to get better footage.

110. (SBU) The second witness on October 28, a Bosnian Muslim citizen of Sarajevo identified only as B-1345, testified to his experience throughout the siege of Sarajevo. The witness told the court how his wife and father were shot

dead and his mother shot in the leg by sniper fire. Milosevic, during his cross-examination, said that there was "no siege of any kind," and that this was all the "consequence of a civil war." Milosevic also tried to question the witness regarding the shelling of the Markale Market on February 5, 1994, since the witness had heard artillery fire near the Serb front lines on that day. He asked him whether he had heard of the United Nations Protection Force (UNPROFOR) report that concluded that there was no way of telling who had fired the shell. Judge May stopped Milosevic's line of questioning, since the witness would have no way of knowing about the report or its conclusions. Milosevic continued to ask questions to which the witness could not possibly know the answer.

11. (SBU) On October 29, the trial chamber heard from a crime-based witness, Jasna Denona, who testified to a shooting that occurred in 1991 leaving a group of Croatians and one Serbian dead. The incident was investigated in 1995, but no charges were brought. Ms. Denona was shot twice as she attempted to run from the house after the assailants had opened fire. Milosevic tried to show that this was the act of a single criminal rather than an ethnically motivated crime committed by a group of soldiers. The second witness to testify, a detainee in a Serbian camp in Zvornik identified as B-1780, described how the soldiers tortured, mutilated and killed the prisoners. He told the court that had the scars that show the atrocities that were committed during his detention. He placed Arkan's men, among others, who beat and tortured the detainees. The witness went on to explain to the court the gruesome events that transpired while he was in the camp. He testified that later he was taken to the hospital, where he received nominal treatment for his broken ribs and arm. He told the court how he fled the hospital for fear that he would be taken out and executed. Milosevic tried to show that the witness was active in politics and local paramilitaries, but much of this cross-examination took place in closed session.

Blewitt Takes the Stand as a Witness

12. (SBU) On October 30, the trial chamber heard from the Deputy Prosecutor, Graham Blewitt. He testified to the contents of a series of letters written in 1998 from the Office of the Prosecutor (OTP) to then-President Milosevic and to the Security Council regarding the investigations into war crimes in Kosovo. The letters addressed the serious difficulties the OTP was facing in the investigations given the non-cooperative position that Serbia was taking at the time. Milosevic used the rare opportunity to cross-examine a senior member of the OTP as an opportunity to question the objectivity of the prosecution in general and to highlight the alleged bias between the investigations of war crimes committed by the Serbian government versus the investigations of NATO bombing. Judge May repeatedly checked Milosevic and explained to him that the objectivity and credibility of the Prosecution's efforts was not a relevant subject matter for this witness. Blewitt reminded Milosevic that the OTP had indeed looked into questions associated with the NATO bombing and decided, on legal and factual grounds, not to pursue such an investigation. Judge May held that only the contents of the letters were open to questioning for this witness. Milosevic continued to ask rhetorical questions, repeatedly referred to a report on NATO bombing, and questioned the credibility of the prosecution in general. He attempted to link NATO bombing with supporting and protecting Kosovar terrorism.

13. (SBU) When Judge May repeatedly stopped his line of questioning, Milosevic said it was no surprise that Judge May was sensitive about addressing the NATO bombing issue. At this, Judge May told Milosevic that his statement was entirely inappropriate and asked him whether he had any relevant questions for the witness, otherwise the court would adjourn. Milosevic responded that apparently all of his questions were improper and that this trial was a farce, since the Judge sought to dictate to the defense what questions they are allowed to ask. He went on further to say that limiting his questions to the letters serves as a smoke screen which masks the crimes committed by NATO and the link to Osama Bin Laden's terrorist activity. Milosevic attempted to draw a chain of events linking Kosovar Albanian terrorism to the Clinton Administration which led to NATO bombings. Milosevic also questioned the legal basis of the Tribunal's competency. He asked Blewitt, as an international lawyer, how the Tribunal could have jurisdiction given that the Serbian State was looking into the crimes. Milosevic also challenged the legitimacy of the case against him, since the prosecution indicted him after only investigation the case for 3-4 months. Blewitt responded that they indicted Milosevic only after they had constructed a case that had enough evidence against him to support the charges. Judge May had to continue to interrupt Milosevic's overly broad line of questioning and eventually

adjourned the hearing.

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Motion Granted for Clark,s Testimony
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14. (C) On October 30, the trial chamber granted the prosecutions motion for protections for General Clark,s testimony. The order, which is presently under seal, has been secure faxed to the Department. It indicates that the trial chamber accepted the motion without modification or caveat and met the conditions of the United States in their entirety. Embassy legal officers are coordinating with Clark,s staff to lock in a date for his testimony. Clark has confirmed that he is ready to testify in December.

Comment

15. (C) The testimony over the past two weeks highlighted several interesting features of the current stage of the trial. For one, the Prosecution has attracted significant insiders with apparent credibility to give evidence of Milosevic,s control over key sectors of the federal and state military apparatus. Embassy legal officers understand that the Prosecution has further insiders waiting to testify. At the same time, Milosevic -- who seemed healthier and more vigorous and focused than in recent weeks -- continued to demonstrate the physical and mental stamina to cross examine witnesses effectively. Equally importantly, he demonstrated that he retains access to Belgrade archival material to support his defense. Nice correctly noted that Milosevic,s access flies in the face of Belgrade's continued refusal to provide the Prosecution with the access it needs to prosecute fully the case. While such arguments may help demonstrate SAM noncooperation, they do not undercut the utility of such documents, at least when authenticated as genuine, to Milosevic. Milosevic,s cross-examination of Blewitt was in many respects a replay of Milosevic,s approach at the early stages of the trial, featuring sweeping challenges ranging from the legitimacy of the court to the fairness of the prosecution to the culpability of the Kosovars and the international community. While these arguments have little legal relevance, they serve as a reminder that Milosevic is prepared to mount as much a political defense as a legal one.

End Comment.
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